

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

|                               |   |                                   |
|-------------------------------|---|-----------------------------------|
| KAREN L. WEISTER,             | ) |                                   |
| Plaintiff                     | ) |                                   |
|                               | ) |                                   |
| vs.                           | ) | Civil Action No. 05-74            |
|                               | ) | Judge Joy Flowers Conti/          |
| JO ANNE B. BARNHART,          | ) | Magistrate Judge Amy Reynolds Hay |
| COMMISSIONER, SOCIAL SECURITY | ) |                                   |
| ADMINISTRATION,               | ) |                                   |
| Defendant                     | ) | Re: Docs. 8 & 9                   |

AND NOW, this 9th day of February, 2006, after the plaintiff, Karen L. Weister, filed an action in the above-captioned case, and after Motions for Summary Judgment were submitted, and after a Report and Recommendation was filed by the United States Magistrate Judge granting the parties ten days after being served with a copy to file written objections thereto, and no objections having been filed, and upon independent review of the motions and the record, and upon consideration of the Magistrate Judge's Report and Recommendation,

IT IS ORDERED that the findings of the Magistrate Judge are adopted for the following reasons:

Consistent with the requirements of Cotter v. Harris, 642 F.2d 700 (3d Cir. 1981), the ALJ considered all of the medical evidence in the record, including objective medical tests, in reaching his determination that plaintiff's degenerative disc disease is not disabling. At the heart of plaintiff's argument is her claim that the ALJ failed to evaluate or consider critical medical evidence. Plaintiff points to a list of surgeries, MRI's and clinical findings and suggests that the ALJ did not consider these records, or he disregarded or rejected them without explanation. There is simply no support in the record for this suggestion. The ALJ not only carefully

addressed those matters listed by plaintiff in her motion but analyzed additional medical findings and observations -- not identified by the plaintiff -- by these same physicians, which support his determination that plaintiff is not disabled. See Tr. 16-19. Unlike the case cited by the plaintiff, Akers v. Callahan, 997 F.Supp. 648 (W.D.Pa. 1998), where, *inter alia*, the ALJ used highly selective medical excerpts and ignored other, significant medical evidence for no apparent reason, and applied unwarranted inferences from the medical reports and documents, the ALJ in the instant case conducted a thorough review and analysis of all of the medical evidence of record, including that which does not support plaintiff's claim of disability.

Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion for Summary Judgment is DENIED.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment is GRANTED.

IT IS FURTHER ORDERED that the decision of the Commissioner denying Plaintiff's application for disability insurance benefits is affirmed.

IT IS FURTHER ORDERED that, pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, if the plaintiff desires to appeal from this Order she must do so within thirty (30) days by filing a notice of appeal as provided in Rule 3, Fed.R.App.P.

/s/ Joy Flowers Conti  
JOY FLOWERS CONTI  
United States District Judge

cc: Honorable Amy Reynolds Hay  
United States Magistrate Judge

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